246.704 Authority for use of warranties.

(1) The chief of the contracting office must approve use of a warranty, except in acquisitions for—
   (i) Commercial items (see FAR 46.709);  
   (ii) Technical data, unless the warranty provides for extended liability (see 246.708);  
   (iii) Supplies and services in fixed-price type contracts containing quality assurance provisions that reference higher-level contract quality requirements (see 246.202-4); or  
   (iv) Supplies and services in construction contracts when using the warranties that are contained in Federal, military, or construction guide specifications.

(2) The chief of the contracting office shall approve the use of a warranty only when the benefits are expected to outweigh the cost.

[71 FR 27647, May 12, 2006]

246.705 Limitations.

(a) In addition to the exceptions provided in FAR 46.705(a), warranties in the clause at 252.246–7001, Warranty of Data, may be used in cost-reimbursement contracts.

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246.706 Warranty terms and conditions.


[71 FR 27647, May 12, 2006]

246.708 Warranties of data.

Obtain warranties on technical data when practicable and cost effective. Consider the factors in FAR 46.703 in deciding whether to obtain warranties of technical data. Consider the following in deciding whether to use extended liability provisions—

(1) The likelihood that correction or replacement of the nonconforming data, or a price adjustment, will not give adequate protection to the Government; and

(2) The effectiveness of the additional remedy as a deterrent against furnishing nonconforming data.

246.710 Solicitation provision and contract clauses.

(1) Use a clause substantially the same as the clause at 252.246–7001, Warranty of Data, in solicitations and contracts that include the clause at 252.227–7013, Rights in Technical Data and Computer Software, when there is a need for greater protection or period of liability than provided by the inspection and warranty clauses prescribed in FAR Part 46.

(2) Use the clause at 252.246–7001, Warranty of Data, with its Alternate II when extended liability is desired and a fixed price incentive contract is contemplated.

(3) Use the clause at 252.246–7001, Warranty of Data, with its Alternate II when extended liability is desired and a firm fixed price contract is contemplated.

(4) Use the clause at 252.246–7002, Warranty of Construction (Germany), instead of the clause at FAR 52.246–21, Warranty of Construction, in solicitations and contracts for construction
when a fixed-price contract will be awarded and contract performance will be in Germany.

(5)(i) In addition to 252.211–7003, Item Identification and Valuation, which is prescribed in 211.274–6(a), use the following provision and clause in solicitations and contracts when it is anticipated that the resulting contract will include a warranty for serialized items:

(A) 252.246–7005, Notice of Warranty Tracking of Serialized Items (include only if offerors will be required to enter data with the offer); and

(B) 252.246–7006, Warranty Tracking of Serialized Items.

(ii) If the Government specifies a warranty, include in the solicitation the appropriate warranty attachment from DFARS 246.710–70. The contracting officer shall request the requiring activity to provide information to ensure that Attachment __., Warranty Tracking Information, is populated with data specifying the Government’s required warranty provision by contract line item number, subline item number, or exhibit line item number prior to solicitation. In such case do not include 252.246–7005 in the solicitation.

(iii) If the Government does not specify a warranty, include 252.246–7005 in the solicitation, and the warranty attachment from DFARS 246.710–70. The contractor may offer a warranty and shall then populate Attachment __., Warranty Tracking Information, as appropriate, as part of its offer as required by 252.246–7005.

(iv) All warranty tracking information that is indicated with a single asterisk (*) in Attachment __., Warranty Tracking Information, shall be completed prior to award. Data indicated with two asterisks (**) may be completed at the time of award. Data indicated with three asterisks (***) may be completed at or after the time of award.

(v) The contractor shall provide warranty repair source instructions (as prescribed in the attachment) no later than the time of delivery.